

SECOND REGULAR SESSION

# SENATE BILL NO. 747

93RD GENERAL ASSEMBLY

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INTRODUCED BY SENATOR KLINDT.

Pre-filed December 5, 2005, and ordered printed.

TERRY L. SPIELER, Secretary.

3082S.021

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## AN ACT

To repeal section 301.560, RSMo, and to enact in lieu thereof one new section relating to used car dealer courses.

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*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Section 301.560, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 301.560, to read as follows:

301.560. 1. In addition to the application forms prescribed by the department, each applicant shall submit the following to the department:

(1) Every application other than a renewal application for a motor vehicle franchise dealer shall include a certification that the applicant has a bona fide established place of business. When the application is being made for licensure as a manufacturer, motor vehicle dealer, wholesale motor vehicle dealer, wholesale motor vehicle auction or a public motor vehicle auction, certification shall be performed by a uniformed member of the Missouri state highway patrol stationed in the troop area in which the applicant's place of business is located; except, that in counties of the first classification, certification may be performed by an officer of a metropolitan police department when the applicant's established place of business of distributing or selling motor vehicles or trailers is in the metropolitan area where the certifying metropolitan police officer is employed. When the application is being made for licensure as a boat manufacturer or boat dealer, certification shall be performed by a uniformed member of the Missouri state water patrol stationed in the district area in which the applicant's place of business is located or by a uniformed member of the

18 Missouri state highway patrol stationed in the troop area in which the applicant's  
19 place of business is located or, if the applicant's place of business is located  
20 within the jurisdiction of a metropolitan police department in a first class county,  
21 by an officer of such metropolitan police department. A bona fide established  
22 place of business for any new motor vehicle franchise dealer or used motor vehicle  
23 dealer shall include a permanent enclosed building or structure, either owned in  
24 fee or leased and actually occupied as a place of business by the applicant for the  
25 selling, bartering, trading or exchanging of motor vehicles or trailers and wherein  
26 the public may contact the owner or operator at any reasonable time, and wherein  
27 shall be kept and maintained the books, records, files and other matters required  
28 and necessary to conduct the business. The applicant's place of business shall  
29 contain a working telephone which shall be maintained during the entire  
30 registration year. In order to qualify as a bona fide established place of business  
31 for all applicants licensed pursuant to this section there shall be an exterior sign  
32 displayed carrying the name of the business set forth in letters at least six inches  
33 in height and clearly visible to the public and there shall be an area or lot which  
34 shall not be a public street on which one or more vehicles may be displayed,  
35 except when licensure is for a wholesale motor vehicle dealer, a lot and sign shall  
36 not be required. The sign shall contain the name of the dealership by which it  
37 is known to the public through advertising or otherwise, which need not be  
38 identical to the name appearing on the dealership's license so long as such name  
39 is registered as a fictitious name with the secretary of state, has been approved  
40 by its line-make manufacturer in writing in the case of a new motor vehicle  
41 franchise dealer and a copy of such fictitious name registration has been provided  
42 to the department. When licensure is for a boat dealer, a lot shall not be  
43 required. In the case of new motor vehicle franchise dealers, the bona fide  
44 established place of business shall include adequate facilities, tools and personnel  
45 necessary to properly service and repair motor vehicles and trailers under their  
46 franchisor's warranty;

47 (2) If the application is for licensure as a manufacturer, boat  
48 manufacturer, new motor vehicle franchise dealer, used motor vehicle dealer,  
49 wholesale motor vehicle auction, boat dealer or a public motor vehicle auction, a  
50 photograph, not to exceed eight inches by ten inches, showing the business  
51 building and sign shall accompany the initial application. In the case of a  
52 manufacturer, new motor vehicle franchise dealer or used motor vehicle dealer,  
53 the photograph shall include the lot of the business. A new motor vehicle

54 franchise dealer applicant who has purchased a currently licensed new motor  
55 vehicle franchised dealership shall be allowed to submit a photograph of the  
56 existing dealership building, lot and sign but shall be required to submit a new  
57 photograph upon the installation of the new dealership sign as required by  
58 sections 301.550 to 301.573. Applicants shall not be required to submit a  
59 photograph annually unless the business has moved from its previously licensed  
60 location, or unless the name of the business or address has changed, or unless the  
61 class of business has changed;

62 (3) If the application is for licensure as a wholesale motor vehicle dealer  
63 or as a boat dealer, the application shall contain the business address, not a post  
64 office box, and telephone number of the place where the books, records, files and  
65 other matters required and necessary to conduct the business are located and  
66 where the same may be inspected during normal daytime business  
67 hours. Wholesale motor vehicle dealers and boat dealers shall file reports as  
68 required of new franchised motor vehicle dealers and used motor vehicle dealers;

69 (4) Every applicant as a new motor vehicle franchise dealer, a used motor  
70 vehicle dealer, a wholesale motor vehicle dealer, or boat dealer shall furnish with  
71 the application a corporate surety bond or an irrevocable letter of credit as  
72 defined in section 400.5-103, RSMo, issued by any state or federal financial  
73 institution in the penal sum of twenty-five thousand dollars on a form approved  
74 by the department. The bond or irrevocable letter of credit shall be conditioned  
75 upon the dealer complying with the provisions of the statutes applicable to new  
76 motor vehicle franchise dealers, used motor vehicle dealers, wholesale motor  
77 vehicle dealers and boat dealers, and the bond shall be an indemnity for any loss  
78 sustained by reason of the acts of the person bonded when such acts constitute  
79 grounds for the suspension or revocation of the dealer's license. The bond shall  
80 be executed in the name of the state of Missouri for the benefit of all aggrieved  
81 parties or the irrevocable letter of credit shall name the state of Missouri as the  
82 beneficiary; except, that the aggregate liability of the surety or financial  
83 institution to the aggrieved parties shall, in no event, exceed the amount of the  
84 bond or irrevocable letter of credit. The proceeds of the bond or irrevocable letter  
85 of credit shall be paid upon receipt by the department of a final judgment from  
86 a Missouri court of competent jurisdiction against the principal and in favor of  
87 an aggrieved party;

88 (5) Payment of all necessary license fees as established by the  
89 department. In establishing the amount of the annual license fees, the

90 department shall, as near as possible, produce sufficient total income to offset  
91 operational expenses of the department relating to the administration of sections  
92 301.550 to 301.573. All fees payable pursuant to the provisions of sections  
93 301.550 to 301.573, other than those fees collected for the issuance of dealer  
94 plates or certificates of number collected pursuant to subsection 6 of this section,  
95 shall be collected by the department for deposit in the state treasury to the credit  
96 of the "Motor Vehicle Commission Fund", which is hereby created. The motor  
97 vehicle commission fund shall be administered by the Missouri department of  
98 revenue. The provisions of section 33.080, RSMo, to the contrary  
99 notwithstanding, money in such fund shall not be transferred and placed to the  
100 credit of the general revenue fund until the amount in the motor vehicle  
101 commission fund at the end of the biennium exceeds two times the amount of the  
102 appropriation from such fund for the preceding fiscal year or, if the department  
103 requires permit renewal less frequently than yearly, then three times the  
104 appropriation from such fund for the preceding fiscal year. The amount, if any,  
105 in the fund which shall lapse is that amount in the fund which exceeds the  
106 multiple of the appropriation from such fund for the preceding fiscal year.

107         2. In the event a new manufacturer, boat manufacturer, motor vehicle  
108 dealer, wholesale motor vehicle dealer, boat dealer, wholesale motor vehicle  
109 auction or a public motor vehicle auction submits an application for a license for  
110 a new business and the applicant has complied with all the provisions of this  
111 section, the department shall make a decision to grant or deny the license to the  
112 applicant within eight working hours after receipt of the dealer's application,  
113 notwithstanding any rule of the department.

114         3. Upon the initial issuance of a license by the department, the  
115 department shall assign a distinctive dealer license number or certificate of  
116 number to the applicant and the department shall issue one number plate or  
117 certificate bearing the distinctive dealer license number or certificate of number  
118 within eight working hours after presentment of the application. Upon the  
119 renewal of a boat dealer, boat manufacturer, manufacturer, motor vehicle dealer,  
120 public motor vehicle auction, wholesale motor vehicle dealer or wholesale motor  
121 vehicle auction, the department shall issue the distinctive dealer license number  
122 or certificate of number as quickly as possible. The issuance of such distinctive  
123 dealer license number or certificate of number shall be in lieu of registering each  
124 motor vehicle, trailer, vessel or vessel trailer dealt with by a boat dealer, boat  
125 manufacturer, manufacturer, public motor vehicle auction, wholesale motor

126 vehicle dealer, wholesale motor vehicle auction or motor vehicle dealer.

127 4. Notwithstanding any other provision of the law to the contrary, the  
128 department shall assign the following distinctive dealer license numbers to:

- 129 New motor vehicle franchise dealers ..... D-0 through D-999
- 130 New motor vehicle franchise and
- 131 commercial motor vehicle ..... D-1000 through D-1999
- 132 Used motor vehicle dealers ..... D-2000 through D-5399
- 133 and D-6000 through D-9999
- 134 Wholesale motor vehicle dealers ..... W-1000 through W-1999
- 135 Wholesale motor vehicle auctions ..... W-2000 through W-2999
- 136 Trailer dealers ..... T-0 through T-9999
- 137 Motor vehicle and trailer manufacturers ..... M-0 through M-9999
- 138 Motorcycle dealers ..... D-5400 through D-5999
- 139 Public motor vehicle auctions ..... A-1000 through A-1999
- 140 Boat dealers and boat manufacturers ..... B-0 through B-9999

141 5. Upon the sale of a currently licensed new motor vehicle franchise  
142 dealership the department shall, upon request, authorize the new approved dealer  
143 applicant to retain the selling dealer's license number and shall cause the new  
144 dealer's records to indicate such transfer.

145 6. In the case of manufacturers and motor vehicle dealers, the department  
146 shall also issue one number plate bearing the distinctive dealer license number  
147 to the applicant upon payment by the manufacturer or dealer of a fifty dollar  
148 fee. Such license plates shall be made with fully reflective material with a  
149 common color scheme and design, shall be clearly visible at night, and shall be  
150 aesthetically attractive, as prescribed by section 301.130. Boat dealers and boat  
151 manufacturers shall be entitled to one certificate of number bearing such number  
152 upon the payment of a fifty dollar fee. As many additional number plates as may  
153 be desired by manufacturers and motor vehicle dealers and as many additional  
154 certificates of number as may be desired by boat dealers and boat manufacturers  
155 may be obtained upon payment of a fee of ten dollars and fifty cents for each  
156 additional plate or certificate. A motor vehicle dealer, boat dealer, manufacturer,  
157 boat manufacturer, public motor vehicle auction, wholesale motor vehicle dealer  
158 or wholesale motor vehicle auction obtaining a dealer license plate or certificate  
159 of number or additional license plate or additional certificate of number,  
160 throughout the calendar year, shall be required to pay a fee for such license  
161 plates or certificates of number computed on the basis of one-twelfth of the full

162 fee prescribed for the original and duplicate number plates or certificates of  
163 number for such dealers' licenses, multiplied by the number of months remaining  
164 in the licensing period for which the dealer or manufacturers shall be required  
165 to be licensed. In the event of a renewing dealer, the fee due at the time of  
166 renewal shall not be prorated.

167           7. The plates issued pursuant to subsection 3 or 6 of this section may be  
168 displayed on any motor vehicle owned and held for resale by the motor vehicle  
169 dealer or manufacturer, and used by a customer who is test driving the motor  
170 vehicle, or is used by an employee or officer, but shall not be displayed on any  
171 motor vehicle or trailer hired or loaned to others or upon any regularly used  
172 service or wrecker vehicle. Motor vehicle dealers may display their dealer plates  
173 on a tractor, truck or trailer to demonstrate a vehicle under a loaded condition.

174           8. The certificates of number issued pursuant to subsection 3 or 6 of this  
175 section may be displayed on any vessel or vessel trailer owned and held for resale  
176 by a boat manufacturer or a boat dealer, and used by a customer who is test  
177 driving the vessel or vessel trailer, or is used by an employee or officer, but shall  
178 not be displayed on any vessel or vessel trailer hired or loaned to others or upon  
179 any regularly used service vessel or vessel trailer. Boat dealers and  
180 manufacturers may display their certificate of number on a vessel or vessel trailer  
181 which is being transported to an exhibit or show.

182           **9. (1) Beginning August 28, 2006, every application for the**  
183 **issuance or renewal of a used motor vehicle dealer's license shall be**  
184 **accompanied by proof that the applicant, within the last twelve months,**  
185 **has completed an educational seminar course approved by the**  
186 **department as prescribed by subdivision (2) of this subsection.**  
187 **Wholesale and retail auto auctions shall be exempt from the**  
188 **requirements of this subsection. The provisions of this subsection shall**  
189 **not apply to new motor vehicle franchise dealers or a motor vehicle**  
190 **leasing agency.**

191           **(2) If the applicant is seeking an initial used motor vehicle**  
192 **dealer's license, the applicant shall submit proof that he or she has**  
193 **completed a twelve-hour educational seminar course approved by the**  
194 **department. If the applicant is seeking to renew his or her used motor**  
195 **vehicle dealer's license, the applicant shall submit proof that he or she**  
196 **has completed a six-hour course approved by the department. The**  
197 **educational seminar shall include, but is not limited to, the dealer**

198 requirements of sections 301.550 to 301.573, the rules promulgated to  
199 implement, enforce, and administer sections 301.550 to 301.570, and any  
200 other rules and regulations promulgated by the department.

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